IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 21293 of 2007(I)

PETITIONER:

CHARLEY KOLATHU,
PRESIDENT, CHANNAPETTA SERVICE CO-OPERATIVE BANK LTD. NO.353, CHANNAPETTA, KOLLAM.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:
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1. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), KOLLAM.

2. STATE CO-OPERATIVE ELECTION COMMISSION, THIRUVANANTHAPURAM.

3. THE CHANNAPETTA SERVICE CO-OPERATIVE BANK LTD. NO.358, CHANNAPETTA, KOLLAM, REPRESENTED BY ITS SECRETARY.

R1 & R2 BY SPL. GOVERNMENT PLEADER (SMT. A. G. ANEETHA)

R3 BY ADV. SRI.M.MANOJKUMAR (CHELAKKADAN)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 21293 OF 2007 I

Dated this the 2nd August, 2007

JUDGMENT

Petitioner challenges Ext.P2 and seeks a direction to the first respondent to act pursuant to Ext.P1 resolution and communicate to the State Co-operative Election Commission the purport of the resolution and to ensure that the Returning Officer is appointed to conduct the election in time prior to the date of expiry of the existing Managing Committee.

2. Case of the petitioner, in brief, is that petitioner is the President of a Service Co-operative Bank. By Ext.P1, the Managing Committee passed a resolution to hold election to the Committee on 19.8.2007, as on 30.8.2007, the period of the existing Managing Committee is to expire. There is nothing wrong with Ext.P1 resolution, it is stated, and the Joint Registrar has acted on the basis of the same. But, by Ext.P2, it is rejected. The reason stated in Ext.P2 is irrelevant, it is contended. In Ext.P2, there is a reference to W.P.(C). No.8812/07 and it is

stated that the Writ Petition being pending, election cannot be held on the basis of Ext.P1 resolution. There is reference to action under Section 32 of the Kerala Co-operative Societies Act. It is stated that part time Administrator was appointed, but this Court by an interim order passed in W.P.(C). No.8812/07 kept the proceedings in abeyance.

3. I heard Shri K. Ramakumar, learned counsel appearing for the petitioner and also Smt. A.G. Aneetha, learned Special Government Pleader besides the learned counsel appearing for the third respondent Bank. This Court by its Judgment in W.P. (C). No.8812/07 quashed Ext.P3 therein. Ext.P3 in the said Writ Petition was the order by which the Committee of which the petitioner is the President, was superseded under Section 32. In such circumstances, the ground mentioned in Ext.P2 cannot, at any rate, survive, as the very order of supersession itself stands interfered with. A perusal of Ext.P1 would show that the term of the Committee is to expire on 25.8.2007. It is pointed out by the learned Special Government Pleader that even accepting

Ext.P1 as valid, there is no time to hold the election in pursuance of Ext.P1, as the date fixed for the election in Ext.P1 is 19.8.2007. She referred to Rule 35A of the Kerala Co-operative Societies Rules in this regard and submitted that at least twentytwo days are necessary. This is controverted by the learned counsel for the petitioner who contends that there is no such requirement under the Rules. Whatever that be, he would submit that in the circumstances of this case, the Committee will take a decision to change the date of election, so that election can be held in accordance with law and before the expiry of the term of the existing Managing Committee. It is to be noted that the petitioner approached this Court on 10.7.2007 and the reason stated in Ext.P2 is only that there is order of supersession and it was directed to be kept in abeyance and W.P.(C) No.8812/07 was pending consideration. In view of the fact that the very Writ Petition stands allowed, there cannot be any further legal objection. After all, the need for a democratically elected Committee is of great significance. In such circumstances, if the

Committee of the Bank resolves to have a date in regard to the election before the expiry of the term of the Managing Committee and makes it over to respondents 1 & 2 in time, with a date which is prior to the expiry of the term of the present Managing Committee and with sufficient time to hold the election under the Rules, it will be acted upon by the respondents 1 & 2 in accordance with law, so that the election can be held as resolved. Ext.P3 cannot be sustained and it is quashed.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

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